

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

CLAYTON BACKMAN,)	
)	
Claimant,)	IC 03-000704
v.)	
)	
MIKE HAMLIN, dba)	ORDER
FRANCHISE LTD ROOFING,)	
)	
Employer,)	Filed January 25, 2005
)	
Defendant.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations with the following modifications to attorney fees and costs. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has established a *prima facie* case in support of his Application for Judgment.
2. Claimant is entitled to necessary medical treatment, including payment of \$1,407.00 for past medical care, together with the cost of future medical care reasonably related to his work-related accident, including, but not limited to, the surgery recommended by Dr. Robinson.
3. Claimant is entitled to past TTD benefits in the amount of \$19,854.02 through December 31, 2004. Beginning January 1, 2005, Claimant is entitled to TTD benefits at the rate

of \$244.35 per week. Claimant will continue to be entitled to TTDs at the statutory rate until he has been released to light-duty work *and* his former Employer has made a reasonable and legitimate offer of employment to him which he is capable of performing under the terms of his light-work release and which employment is likely to continue throughout his period of recovery *or* that there is employment available in the general labor market which Claimant has a reasonable opportunity of securing and which employment is consistent with the terms of his light-duty work release.

4. Employer shall pay a statutory penalty in the amount of 10% of the total compensation due Claimant. The statutory penalty for past TTDs and medical care through December 31, 2004 is \$2,126.10.

5. Claimant is entitled to attorney fees and costs, to the date of this decision, in the amount of \$3,575.58. Such amount excludes \$180.00 requested for legal assistant fees, which are not allowed by statute.

6. Claimant is entitled to interest on the unpaid liquidated medical and income benefits, penalty, and attorney fees from the date of this decision until paid in full.

7. The Commission shall retain jurisdiction for the purpose of ensuring proper calculation of the future income and medical benefits, statutory penalties and attorney fees and costs due Claimant, and to allow such sum to be entered by an Order of the Commission.

8. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this __25__ day of January, 2005.

INDUSTRIAL COMMISSION

/s/ Thomas E. Limbaugh, Chairman

_____/s/_____
James F. Kile, Commissioner

_____/s/_____
R.D. Maynard, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the _25 day of January, 2005 a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

RACHAEL M O'BAR
942 MYRTLE ST
BOISE ID 83702

MIKE HAMLIN
C/O WENDY HAMLIN
281 W CASE ST
KUNA ID 83634

djb

_____/s/_____